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# Request for Continued Examination (RCE) Transmittal

Address to:  
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Alexandria, VA 22313-1450

Application Number	10/757,652
Filing Date	January 13, 2004
First Named Inventor	Blake Cumbers
Art Unit	3714
Examiner Name	Mark Alan Sager
Attorney Docket Number	087620.000010

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other Terminal Disclaimer

## 2. Miscellaneous


- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 502466. I have enclosed a duplicate copy of this sheet.
- a. ☒ ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other Terminal Disclaimer
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	October 25, 2007
Name (Print/Type)	Rob L. Phillips	Registration No.	40,305

### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature

Name (Print/Type)

Date

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/757,652 Confirmation No. 3926  
Applicant : Blake Cumbers  
Filed : January 13, 2004  
Title : PASSIVE BIOMETRIC CUSTOMER IDENTIFICATION AND  
TRACKING SYSTEM  
TC/A.U. : 3714  
Examiner : Mark Alan Sager  
Docket No. : 087620.000010  
Customer No. : 29747

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PO Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE WITH REQUEST FOR CONTINUED  
EXAMINATION (RCE)**

Commissioner:

This is in response to the Office action dated June 29, 2007.

**Remarks** begin on page 2 of this paper.

Enclosed with the paper are the following:

1. **Request for Continuing Examination (RCE).**
2. **Disclaimer**

Applicant **Petitions the Commissioner** to extend the time for response to the Office action for one (1) month from September 29, 2007 to October 29, 2007.

## REMARKS

### I. Double Patenting

The Examiner has rejected the claims of the present application on the ground of non-statutory obviousness-type double patenting over U.S. Patent No. 6,142,876 to Cumbers in view of U.S. Patent No. 5,770,533 to Franchi. Applicant submits herewith a terminal disclaimer relative to U.S. Patent No. 6,142,876 which is commonly owned with this '652 Application. Applicant has not made any claim amendments as the terminal disclaimer should overcome the double patenting rejection with the claims as previously presented.

### II. Conclusion

It is respectfully submitted that the application is now in condition for allowance and, accordingly, reconsideration and allowance are respectfully requested. Should any questions remain regarding the allowability of the application, the Examiner is invited to contact the undersigned at the telephone number indicated below.

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3773 Howard Hughes Pkwy.  
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Respectfully submitted,

By: \_\_\_\_\_

Rob L. Phillips  
Registration No. 40,305

Date: October 25, 2007